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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,588	03/30/2001	S. Sean Moore	UV/192	6830
1473	7590	06/10/2005	EXAMINER	
FISH & NEAVE IP GROUP ROPES & GRAY LLP 1251 AVENUE OF THE AMERICAS FL C3 NEW YORK, NY 10020-1105			LASTRA, DANIEL	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/823,588	MOORE ET AL.
	Examiner	Art Unit
	DANIEL LASTRA	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 24 March 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,2,6-18,20-37,40-43,45-48 and 50-53 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,2,6-18,20-37,40-43,45-48 and 50-53 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1, 2, 6-18, 20-37, 40-43, 45-48 and 50-53 have been examined.

Application 09/823,588 (SYSTEM AND METHOD FOR METADATA-LINKED ADVERTISEMENTS0 has a filing date 03/30/2001

***Response to Amendment***

2. In response to Non Final Rejection filed 09/24/2004, the Applicant filed an Amendment on 03/24/2005, which amended claims 1, 2, 6, 7, 11-18, 20, 21, 25-33, 36, 37, 40, 41, 43, 45, 46, 48, 50, 51, 53 and cancel claims 3-5, 19, 38, 39, 44 and 49. Applicant's amendment overcame the Section 101 rejection.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 2, 6-18, 20-34, 37, 40-43, 45-48 and 50-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Srinivasan et al (U.S. 6,357,042).

As per claims 1, 18, 32, 36, 37, 43, 48 and 53, Srinivasan teaches:

*A method executed by at least one computer processor for providing metadata-selected advertisements, comprising:*

*receiving media comprising at least one object and metadata, wherein the metadata is associated with the object and contains a description of the object* (see column 5, line 62 – column 6, line 19);

*displaying the media and the object on a viewing device* (see column 7, lines 37-49);

*receiving a user selection of the object displayed on the viewing device* (see column 32, line 21 – column 33, line 3);

*processing metadata associated with the object* (see column 32, line 21 – column 33, line 3) *selected by the user; and*

*selecting an advertisement related to the object based on the description contained in the metadata* (see column 6, lines 9-19; column 12, lines 20-34; column 32, line 21 – column 33, line 3)

*monitoring the selected advertisement* (see column 7, lines 35-49; column 31, lines 49-56);

*collecting data on the selected advertisement* (see column 7, lines 36-49), *recording the data and downloading the advertisement based on the metadata and displaying the advertisement* (see column 37, lines 1-6; column 38, lines 1-5).

As per claim 2, Srinivasan teaches:

The method of claim 1 further comprising displaying the *selected* advertisement on the viewing device (see column 12, lines 20-35; column 32, lines 21-64).

As per claims 6, 20, 40, 45 and 50, Srinivasan teaches:

The method of claim 1 wherein the metadata is received on a broadcast channel on which the media is also received (see column 31, lines 15-56).

As per claims 7, 21, 41, 46 and 51, Srinivasan teaches:

The method of claim 1 wherein the metadata is received on a separate broadcast channel from the media (see column 31, lines 15-56).

As per claims 8, 22, 42, 47 and 52, Srinivasan teaches:

The method of claim 1 further comprising storing the metadata (see column 32, lines 21-31).

As per claims 9 and 23, Srinivasan teaches:

The method of claim 8 wherein the metadata is stored on a single storage device (see figure 16; column 32, lines 21-31).

As per claims 10 and 24, Srinivasan teaches:

The method of claim 8 wherein the metadata is stored on a plurality of storage devices (see figure 16, column 32, lines 21-31).

As per claims 11 and 25, Srinivasan teaches:

The method of claim 1 further comprising receiving the *selected* advertisement (see column 12, lines 20-35; column 32, lines 21-56).

As per claims 12 and 26, Srinivasan teaches:

The method of claim 11 wherein the *selected* advertisement is received within the media (see column 12, lines 20-35; column 32, lines 21-56).

As per claims 13 and 27, Srinivasan teaches:

The method of claim 11 wherein the *selected* advertisement is received on a broadcast channel on which the media is also received (see column 31, lines 15-56).

As per claims 14 and 28, Srinivasan teaches:

The method of claim 11 wherein the *selected* advertisement is received on a separate broadcast channel from the media (see column 31, lines 15-56).

As per claims 15 and 29, Srinivasan teaches:

The method of claim 1 further comprising storing the *selected* advertisement (see column 32, lines 21-55).

As per claims 16 and 30, Srinivasan teaches:

The method of claim 15 wherein the *selected* advertisement is stored on a single storage device (see figure 16, column 32, lines 21-31).

As per claims 17 and 31, Srinivasan teaches:

The method of claim 15 wherein the *selected* advertisement is stored on a plurality of storage devices (see figure 16, column 32, lines 21-31).

As per claim 33, Srinivasan teaches:

The method of claim 32 wherein the metadata further contains a source address (see column 32, lines 21-40).

As per claim 34, Srinivasan teaches:

The method of claim 33 wherein the source address is a Uniform Resource Locator (see column 32, lines 21-40).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Srinivasan et al (U.S. 6,357,042).

As per claim 35, Srinivasan does not expressly teach:

The method of claim 33 wherein the source address is a telephone number. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Srinivasan would include in the source address the advertiser's telephone number therefore giving users the advertiser's contact information.

***Response to Arguments***

5. Applicant's arguments filed 03/24/2005 have been fully considered but they are not persuasive. The Applicant argues that in Srinivasan the advertisement selection is performed based on a user profile, and not in description contained in the metadata. The Examiner answers that Applicant's specification page 5, line 27 – page 6, line 9

teaches "For example, metadata may be provided at the scene level of a program. Each scene of the program may show a different product. In one scene, an actor may be driving a certain car or wearing a particular type of clothing. In another scene, an actor may be wearing different clothing, or another actor may be in the shot with other items that may be promoted (e.g. a cell phone, sun glasses, etc). As stated above, these products may be linked to advertisements for these products using metadata. By providing metadata at the scene level, more descriptive information about a program or other media can be provided in a more temporally associated way. In this way, the advertising of a product is enhanced because the viewer can watch the product or service as it is worn, used or provided". Srinivasan teaches "By image entity is meant any person or thing depicted in a video display, such as a player in a sports game, and actor in a play, a car in a car race, and so on. FIG. 1 is a block diagram illustrating an authoring station 11 adapted for accepting a video data stream 16 from a video head end 15 as is known in the art. The original video data source 12 may be any recorded or live source and is not limited as to protocol. Authoring station 11 includes a display 14 and an object tracking module 13 which is adapted to automatically track image entities in a video presentation, and to synchronize the tracking result with the video data stream. The overall purpose of the authoring station is addition of innovative material to the video data stream, such as text overlay, graphic icons and logos for advertisement, some of which may be associated with identity and address data to allow a viewer at a computerized end station to access advertisements and other data which may be associated with individual entities in the video presentation.

Advertisements may, for example, be associated with a tracked object. Also the text annotations could either be set to track along with an object, or appear in a fixed position anywhere on the screen, as they are typical in broadcasts today" (see column 5, line 63 – column 6, line 19). Also, Srinivasan teaches in column 12, lines 20-35 "It will be apparent to one with skill in the art that those who advertise and promote products or services may utilize the capability as taught by the present invention to create a venue for the promotion of such products or services. For example, a subscriber (end user) to a service specializing in providing video media wherein interactive advertisements are presented may obtain CPE equipment adapted to display, identify, and provide, through interactive device, methods for obtaining additional information regarding image entities. Such interaction may be a simple mouse click on the entity during playback of the video which may invoke a link to a network-based data-server that may deliver the data to the end user via modem connection or the like". And also, Srinivasan teaches in column 7, line 65 – column 8, line 5 "the image entity selected for tracking, however, is not the diver per se, but the swim suit worn by the diver". Therefore, Srinivasan teaches a system similar to the Applicant's claimed invention where products (i.e., swim suits) are linked to advertisements using metadata, and where said metadata is used to obtain advertisement's information of said products.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra  
May 30, 2005

  
RETTA YEHDEGA  
PRIMARY EXAMINER